

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DERRICK STRONG,

Plaintiff,

-against-

OLYMPUS CORP., et al.,

Defendants.
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LINDSAY, Magistrate Judge:

By letter dated July 5, 2007, defendants move to compel the plaintiff to appear for an additional seven hours of deposition and to provide a certified transcript of the “voluminous and inaudible recordings he produced.” In addition, defendants seek an award of costs incurred in connection with the instant application. Plaintiff opposes the application by letter dated July 10, 2007 and requests, with the plaintiff’s consent, that the July 26th discovery deadline be extended through October 31, 2007. For the reasons that follow, the defendants’ motion to compel is denied and the plaintiff’s motion to extend the discovery deadline is granted.

Federal Rule of Civil Procedure 30(d)(2) limits a deposition to a single, seven-hour day. However, the Rule further provides that a “court must to allow additional time consistent with Rule 26(b)(2) if needed for a fair examination of the deponent or if the deponent or another person, or other circumstance, impedes or delays the examination.” Fed. R. Civ. P. 30(d)(2). Defendants were provided with approximately six hours of tape recordings in advance of plaintiff’s deposition. The defendants requested that the plaintiff provide a certified transcript of the recordings, or at least indicate relevant portions in advance of the deposition. Although plaintiff appears to have delineated what he considered to be the relevant tracks, the defendants assert that they must now review all of the recordings with the plaintiff and require an additional seven hours of deposition for this purpose.

It is undisputed that the defendants had ample time to review the recordings, or seek judicial assistance to resolve this issue before the plaintiff’s deposition. Having failed to do either, the defendants cannot now complain that they could not conduct a complete deposition of the plaintiff. Accordingly defendants’ application to depose plaintiff for an additional seven hours is denied.

In accordance with the parties’ request, the deadline for the completion of all discovery (fact and expert) is extended through October 31, 2007. Any party seeking to make a dispositive motion shall take the first step in the motion process by November 16, 2007. The parties are referred to the individual practices of District Judge Wexler in this regard. The final conference before the undersigned is adjourned to **November 27, 2007 at 11:30 a.m.** The proposed joint

pretrial order shall be electronically filed in advance of the final conference. The parties are reminded that pursuant to Judge Wexler's instruction that his cases must be marked ready for trial approximately one year from their commencement, further extension of these deadline will not be permitted.

Dated: Central Islip, New York
July 11, 2007

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge